

1996
FINAL REPORT

ANACONDA - DEER LODGE COUNTY
STUDY COMMISSION



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To the Citizens of Anaconda-Deer Lodge County:

The Anaconda-Deer Lodge County Study Commission elected by the voters on November 8, 1994, or thereafter appointed, present this tentative report to the citizens of this county.

The Study commissioners logged 53 regular meetings that included 650 group hours, held four public hearings, and conducted a public survey -- all to receive public participation. The Study commissioners also interviewed about 90 percent of the county employees, department heads and board members. We also interviewed current and former city-county commissioners and former study commissioners, as well as one former city-county manager and the current chief executive.

Our primary goal is to assess our strengths and weaknesses within the Charter form of city-county government. After an intensive study of almost two years, it is the decision of the Study Commission to recommend changes in the Charter that will provide a governmental framework to meet the changing needs of this County.

We have identified those areas in city-county government that work well, work reasonably well, and work inadequately. We want to make local government more efficient and productive within the whole Charter government.

We are not concerned with quick fixes, but long-term, real solutions to these problem areas.

The responsibility is now for citizens of the city and county to examine the advantages and disadvantages of the proposed recommendations to the Charter. This is a unique opportunity for Anaconda-Deer Lodge County citizens to participate in making their local government more accountable and proactive. Government that works best is that which has citizen involvement.

As a result of citizen involvement, the Anaconda-Deer Lodge County Study Commission recommends five Charter changes, each covering areas where problems were identified.

We, therefore, recommend the following changes:

SUMMARY STUDY COMMISSION REPORT

PROPOSED CHARTER AMENDMENTS	PRESENT FORM OF GOVERNMENT	PROPOSED AMENDMENT	EVALUATIVE COMMENTS
#1. To require all county boards be created by an ordinance with specific requirements.	Currently, the Charter contains no specific requirements for creating county boards.	Would require each Board to be created by an ordinance with specific requirements, such as defining power & duties, duration, frequency of meetings, etc.	Provides a standardized method of creating boards. All boards will know their purpose, responsibilities and duties.
#2. To give the A.D.L.C. Chief Executive veto power over ordinances and resolutions, subject to override by the County Commission	The Chief Executive currently has no veto power.	Would allow the Chief Executive to veto ordinances and resolutions. The County Commission may override the veto by a vote of 4 Commissioners.	Provides check and balances between the Commission & Chief Executive. Now that the Chief Executive is elected, veto power will promote better cooperation between the Executive & Legislative Branches.
#3. To eliminate the Advisory Council & change the method of filling vacancies on the County Commission	15 member Joint Advisory Council, consisting of 3 members from each Commission District. Commission vacancies are appointed from the Advisory Council by the County Commission	Advisory Council eliminated. Commission vacancies filled by candidate for that District who received second highest vote total in previous election. If that candidate is not eligible, Commission takes applications and appoints.	Advisory Council has no real authority. There is a lack of citizen interest, as shown by 7 vacant seats on the current council. Procedure for filling vacancies more precise. Vacancy would be filled by someone who actually ran for office.
#4. To change the method of election of the County Attorney from Partisan to Non-Partisan.	County Attorney elected on a partisan ballot.	County Attorney elected on a non-partisan basis.	All other County elected officials are already elected on a non-partisan basis. Gives all Citizens a chance to vote for Co. Attorney, regardless of party affiliation.
#5. To define the duties and limitations of the Chief of Law Enforcement.	Currently, duties and limitations of Chief of Law Enforcement are not defined in the City-County Charter. Chief may be appointed to head other departments.	Specific duties and limitations would be clearly defined. Chief would be prohibited from heading other departments except as specified in the Charter.	Now that the Chief of Law Enforcement is elected, duties should be defined in the Charter as other County Officials duties are defined. The Chief of Law Enforcement position already has numerous responsibilities: Police, Jail, 911 Center, Animal Control, & Search & Rescue. We believe any additional duties over extend the position and should be handled by other officials.
Full Final report of the A.D.L.C. Study Commission is available at: Room #101, Courthouse, 800 S. Main St. Anaconda, MT 59711			

Anaconda-Deer Lodge Study Commission 9/13/96

Proposed Charter Amendment No. 1

A ballot issue to require all county boards be created by an Ordinance with specific requirements as set forth in proposed charter amendment number one.

For adoption of the amendment to the Anaconda-Deer Lodge County Charter to require all city-county boards be created by ordinance with specific requirements as proposed by the Anaconda-Deer Lodge County Study Commission.

For the existing form of government, which does not require city-county boards be created by ordinance with specific requirements.

The Charter would be amended by adding Section 7 to Article 3 and would read as follows:

Section 7.

1. All county boards, commissions, and committees appointed by the county commission shall be established by a separate ordinance. The establishing ordinance for each board shall comply with the following requirements:
 - A. The purpose, powers and duties, membership, and term of office of the board, commission or committee shall be clearly defined.
 - B. The frequency of meetings of the board shall be set forth.
 - C. The duration of existence of the board shall be set forth.
 - D. If the board is required for any purpose by State law, the law shall be referenced on the ordinance.
 - E. The ordinance shall specify how often the board, commission, or committee shall be required to report back to the commission.
 - F. The ordinance shall specify whether any staff, employees, or commissioners may serve on the board, commission, or committee and whether any commissioner may chair that board or committee.

2. The Anaconda-Deer Lodge County Commission shall post and advertise all board openings, vacancies and expired terms within 30 days of the notice of such vacancies. The Anaconda-Deer Lodge County Commission shall wait 30 days after advertising or posting begins prior to filling such vacancies.
3. This amendment shall become effective on January 1, 1997. All existing boards must comply with this section by January 1, 1999.

Findings/Conclusions:

Approximately 75 percent of the board members were interviewed. Of 56 boards, about 25 do not meet regularly or have not met at all for a long period of time. Many boards were created without any set direction, rules, responsibilities, or authority. There is no prescribed or timely method of reporting to the Commission or the Chief Executive. The public is not generally informed when vacancies occur.

The additional requirements to establish boards will result in better operation of the government.

Advantages:

Provides a standardized method of creating boards which would improve consistency in the way boards are created and operate.

Any board would know its purpose, responsibilities, and authority when created. The board would know how long the board would function and frequency of meetings, who and when to report to of its activities. The notice requirement would possibly give the opportunity for new members to be appointed to boards.

Disadvantages:

It would take longer to create boards. Boards created by ordinance would require public hearings and additional steps before a board is created.

Economic Impact:

None.

Proposed Charter Amendment No. 2

A ballot issue to give the Anaconda-Deer Lodge County chief executive veto power over ordinances and resolutions, subject to override by the county commission, as set forth in proposed charter amendment number two.

For adoption of the amendment to the Anaconda-Deer Lodge County charter to give the chief executive veto power over ordinances and resolutions, subject to override by the county commission, as proposed by the Anaconda-Deer Lodge County Study Commission.

For the existing form of government, in which the Anaconda-Deer Lodge County chief executive has no veto power.

The Charter would be amended by adding Section 4. Veto Power to Article IV, Chief Executive, and would read as follows:

Section 4. Veto Power.

A. The Chief Executive may veto ordinances and resolutions subject to override by a vote of four or more commissioners of the County Commissioners.

B. This Amendment shall become effective on January 1, 1997.

Findings/Conclusions:

After several months of studying and reviewing the local government the Study Commission found it necessary for the Chief Executive to have veto power. Veto power would not only strengthen the position of the Chief Executive but also strengthen the county government as a whole. The Study Commission heard from several individuals that this is needed and can be used as a system of checks and balances for the County. This is a device that the Chief Executive can use to give more control and accountability to the citizens of the county.

The Chief Executive is a full-time position that should have an in-depth knowledge of County operations; therefore, the individual should have the ability to veto ordinances and resolutions he/she believes not beneficial to the citizens of the county.

It would be a similar set up to the State (Governor) and Federal Government (President) having veto power.

Advantages:

Provides check and balances between the Commission and Chief Executive, opens communication and discussion within local government, and makes room for compromise. Chief Executive gains more voice in decisions.

Example: The CEO prepares and submits the budget to the Commission. Right now the CEO can submit a balanced budget to the Commission and can then shift the responsibility to the Commission who may adjust the figures whereby the budget is no longer balanced. The veto power would ensure the CEO and Commission having dialogue to balance the budget. If the County Commission were intent upon spending considerable more money in the budget than the CEO recommended, instead of the CEO being forced to sit back and go along with the Commission, the CEO would have the ability to veto the budget and that would make sure four of the five commissioners would have to be in agreement to override the veto.

Disadvantages:

Can create tension between the Commission and Chief Executive. Can slow down the process. The veto could be used frequently and abused. Shift of power from Commission to Chief Executive.

Commission loses some power in that it would require four commissioners to pass something instead of three commissioners in the event of a veto.

Economic Impact:

None.

Proposed Charter Amendment No. 3

A ballot issue to eliminate the Advisory Councils and to change the method of filling vacancies on the Anaconda-Deer Lodge County Commission, as set forth in proposed charter amendment number three.

_____ For adoption of the amendment to the Anaconda-Deer Lodge County charter to eliminate the Advisory Councils and change the method of filling vacancies on the county commission as proposed by the Anaconda-Deer Lodge County Study Commission.

_____ For the existing form of government and retention of the Advisory Councils and the existing method of filling vacancies on the county commission.

The Charter would be amended by deleting Section 3. Advisory Councils from Article 7, Popular Controls and amending Article 3, Commission, Section 4, Sub-Section 4 to read as follows:

4. A. In the event of a vacancy on the County Commission, the candidate for the vacant commission district receiving the second highest total of votes in the previous election for that district shall assume the office of county commissioner. In the event that candidate is ineligible, unable or unwilling to assume the office of county commissioner, the remaining commission shall advertise the vacancy, accept applications from eligible citizens, and chose an eligible citizen to fill the vacancy.
- B. This amendment shall become effective on January 1, 1997.

Findings/Conclusions:

One problem area that was identified during the course of the study by research, discussion, public hearings, testimony of public officials and citizen surveys indicated that the Advisory Councils have not functioned as intended at the time of consolidation and development of the Charter.

Since its inception the Advisory Councils have had difficulty in maintaining membership and having a quorum to conduct meetings. There have been periods of time since 1977 when the Advisory Councils ceased to function.

Many times there were only seven or eight people running for the 15 positions and the Commission did not fill the vacancies. It was not clearly defined in the Charter which Advisory Council member would fill a Commission vacancy -- the one with the most seniority, the one with the most votes, or at will of the Commission. In fact, in the past the Commission has appointed somebody to the Advisory Council and then elevated that person immediately to the Commission thereby essentially circumventing existing Advisory Council members.

The community has not shown a sufficient interest in either volunteering or running for the Advisory Council and many members did not show up for the monthly meetings or Commission meetings. The survey revealed the majority of the population was not aware of the Advisory Councils and did not know the purpose for having same.

Therefore, it is being proposed to amend the Charter by eliminating the Advisory Councils and change the method of filling vacancies on the County Commission.

Advantages:

The procedure for replacing a Commissioner would be precise with no interpretation being needed and it would eliminate the debate between commissioners for replacing a commissioner. The person that would become a replacement commissioner has already demonstrated an interest in serving Anaconda-Deer Lodge County by running for the office.

Disadvantages:

With the current policy of replacing a commissioner, the Commission has up to three people from which to choose. Fewer people would be involved in local government.

Economic Impact:

There would be a slight cost savings in photocopies and postage for material being distributed to 15 persons on a weekly and monthly basis and the elimination of monthly over-time secretarial wages.

Proposed Charter Amendment No. 4

A ballot issue to change the method of election of the county attorney from partisan to non-partisan, as set forth in proposed charter amendment number four.

_____ For adoption of the amendment to the Anaconda-Deer Lodge County Charter to change the method of election of the county attorney from partisan to non-partisan, as proposed by the Anaconda-Deer Lodge County Study Commission.

_____ For the existing form of government in which the county attorney is elected on a partisan basis.

Article 6, Section 2, Subsection 2 would be amended to read:

- A. The County Attorney shall be elected for a four (4) year term on a non-partisan ballot, shall have qualifications set by state law, and may be removed from office as provided by state law.
- B. This amendment shall become effective on January 1, 1997.

Findings/Conclusions:

The Secretary of State's Office acknowledges there are currently four non-partisan county attorneys in the State of Montana.

If approved, this amendment shall go into effect on January 1, 1997. However, the County Attorney elected in 1996 shall complete his four-year term.

Advantages:

It will conform with the other elected offices in Anaconda-Deer Lodge County. In a 1995 survey that was conducted, 65 percent of the people chose non-partisan for all offices. This would give everyone a chance to vote in the primary election. The final decision is made at the general election when more voters will turn out. Shorter transitional period.

Disadvantages:

The proposal would weaken local political parties by eliminating the last local partisan office. It eliminates a party vote.

Economic Impact:

None.

Proposed Charter Amendment No. 5

A ballot issue to define the duties and limitations of the position of chief of law enforcement of Anaconda-Deer Lodge County, as set forth in proposed charter amendment number five.

For adoption of the amendment to the Anaconda-Deer Lodge County Charter to define the duties and limitations of the position of chief of law enforcement, as proposed by the Anaconda-Deer Lodge County Study Commission.

For the existing form of government, in which the duties and limitations of the chief of law enforcement are not defined.

Article 11, Section 1, Qualifications, Election, Removal, and Vacancy, Subsection 3 would be amended to read:

3. The Chief of Law Enforcement shall not hold any other public office or be employed by anyone other than Anaconda-Deer Lodge County, and shall not be the department head of, or supervise, any other department of local government.

Article 11, Section 2, Compensation, and Section 3, Duties, would be amended to read:

Section 2. Compensation

The Commission shall set the salary and other benefits of employment of the Chief of Law Enforcement.

Section 3. Duties

The Chief of Law Enforcement's responsibilities shall be to:

1. Preserve the peace;
2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;
3. Prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his/her knowledge;

4. Perform the duties of a humane officer within the County with reference to the protection of animals;
5. Attend all courts, except municipal, justices' and city courts, at their respective terms or sessions held within the County and obey their lawful orders and directions;
6. Take charge of, maintains and manages the detention center and the inmates therein;
7. Serve all process or notices in the manner prescribed by law;
8. Take charge of and supervise search and rescue units and their offices whenever search and rescue units are called into service; and
9. Directs and supervises all enforcement officers; conducts criminal investigations;
10. Enforces all laws, ordinances, and resolutions; manages traffic control and parking;
11. Complies with personnel procedures and the budget established by the Commission;
12. Directs and supervises the operation of the 911 Center;
13. Performs such other duties as are required by law or ordinance, at the direction of the Chief Executive.

Section 4. This Amendment shall become effective on January 1, 1997.

Findings/Conclusions:

The current language in the Charter concerning the elected position of Chief of Law Enforcement was adopted in 1993, after the voters overwhelmingly approved a proposal to make the Chief's position elected. However, no job duties were listed in the Charter. The Charter does list job duties for the Chief Executive, Commission, and County attorney. (The duties for County Attorney simply references state law.)

Our proposed amendment incorporates various duties from the State laws concerning sheriffs, police chiefs, and the county administrative code. We believe it was necessary to specifically list what the duties and responsibilities of the Chief of Law Enforcement are.

To prepare for making this recommendation, the Study Commission interviewed seven members of the current Law Enforcement Department, the Commission, the Chief Executive, the Police Commission, the County Coroner and Deputy Coroners, the Clerk and Recorder, several Ambulance Attendants, and the Chief of Law Enforcement. In addition, one public hearing was held specifically concerning this proposal, which twenty-seven people attended. In addition, the Study Commission has reviewed Charters for all other Montana cities with self-governing powers, as well as Butte-Silver Bow, which is also a self-governing power consolidated city-county. The Study Commission Chairman also conducted telephone interviews with the Butte-Silver Bow Sheriff and with the Powell County Sheriff.

Advantages:

1. Job duties and responsibilities list. The Study Commission believes that there should be no confusion or ambiguity in what a person is expected to do in their job. Currently our Charter invites confusion. It is unclear whether the duties of a sheriff or a police chief apply to our Chief of Law Enforcement, or whether some mixture applies.

The duties listed consist of duties obtained from three sources; state law concerning sheriffs, state law concerning police chiefs, and the County Administrative Code. These duties give no new authority to the Chief of Law Enforcement, in fact, all of these duties have been performed by the Chief since consolidation. However, clarity is provided; there will be no more confusion about what duties the Chief does or does not have.

2. Prohibition on being the head of another department. This proposal would change the current operation of government in two ways; the Chief of Law Enforcement would no longer be allowed to serve as head of the Ambulance Department, or as the County Coroner. We believe these changes are beneficial to the county. The Chief of Law Enforcement already has more employees to supervise than any other department head. The police department, with the 911 center and jail consume over one-third of the entire county budget. Simply put, there is more than enough work for the Chief without imposing extra duties as Coroner or head of the Ambulance Department.

There is also an issue of checks and balances involved. There are 12 other counties in Montana in which sheriff, coroner and police chief duties are all consolidated. None of these counties has a population over 5,000 people. All counties with an urban area have separate sheriffs and police chiefs or coroners. Twenty-nine counties have consolidated coroner and sheriff positions, but the larger cities in those counties have a separate police chief. We believe it is dangerous to place too much power in one person's hands, and that checks and balances on power are a benefit to local citizens.

Nothing in the proposal would prevent any police officer other than the Chief from being Coroner. By having two separate individuals accountable, a check and balance system is established. If another officer were appointed as Coroner, disadvantage number one listed below would not apply.

Disadvantages:

1. The current tradition has been for the Chief of Law Enforcement to also be Coroner. (Although nothing in the current Charter requires this to be the case.) It has been argued that keeping the Chief as Coroner maintains police control of the occasional homicide or suspicious death scene, and helps to facilitate cooperation and to preserve evidence.
2. Prohibiting the Chief from running other departments could limit flexibility of local government to make cuts and to consolidate other departments with the Department of Law Enforcement.

Economic Impact:

The addition of specific duties will have no impact on the city-county budget, since all of said duties are already being performed by the Chief of Law Enforcement. The proposal to forbid the Chief of Law Enforcement from supervising any other department would impact the Ambulance and Coroner budgets. The Ambulance Department could be supervised by one of the current co-supervisors with little or no impact on the budget. The Coroner budget currently does not include the Deputy Coroners overtime pay, so it is not possible to determine what impact the proposal would have on the budget without having a complete picture of the total cost of the current Coroner's operation.

In addition, the County pays the Coroner a \$3,708 per year salary. About 80% of the Coroner calls are currently handled by Deputy Coroners. The Coroner currently handles 20% of Coroner calls, does routine scheduling and bookkeeping for \$309.00 per month. It is quite likely that another person could be found to handle the workload of the Coroner position for that amount, who may also do more hands on work, saving some of the overtime money paid to the Deputy Coroners.

Dated this 13th day of August, 1996.

Respectfully submitted,

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